State Law Library of Montana

Montana Legislative History

Chapter: 587 Session L: 1999

Bill Number: 356 House / ~~Senate~~

Checklist of Bill History

History and Final Status Sheet	☑
Introduced Bill	☑
Fiscal Note	☐
Third Reading Bill	☑
Final Version of Bill	☑

House

Committee:
Transportation

Hearing Date(s):
March 10, 1999
March 15, 1999

Committee Report:

Senate

Committee:
State Administration
Taxation

Hearing Date(s):
Feb 5, 1999 & Feb. 10, 1999
Feb 8, 1999

Committee Report:

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: pgf

Date: 12-4-23

Notes:

Bill Draft Number: LC1403
Bill Type - Number: SB 356
Short Title: Require one member of transportation commission have knowledge of Indian culture
Primary Sponsor: Arnie Mohl (R) SD 39
Chapter Number: 587

Bill Actions - **Current Bill Progress:** Became Law

Bill Action Count: 64

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	05/10/1999			
(S) Signed by Governor	05/10/1999			
(S) Transmitted to Governor	04/30/1999			
(C) Printed - New Version Available	04/26/1999			
(H) Signed by Speaker	04/26/1999			
(S) Signed by President	04/26/1999			
(S) Returned from Enrolling	04/26/1999			
(C) Printed - New Version Available	04/21/1999			
(S) Sent to Enrolling	04/21/1999			
(H) Returned to Senate Concurred in Governor's Proposed Amendments	04/21/1999			
(H) 3rd Reading Governor's Proposed Amendments Adopted	04/21/1999	72	27	
(H) Scheduled for 3rd Reading	04/21/1999			
(H) 2nd Reading Governor's Proposed Amendments Adopted	04/20/1999	83	17	
(S) 3rd Reading Governor's Proposed Amendments Adopted	04/16/1999	46	4	
(S) Scheduled for 3rd Reading	04/16/1999			
(S) 2nd Reading Governor's Proposed Amendments Adopted	04/15/1999	50	0	
(S) Scheduled for 2nd Reading	04/15/1999			
(S) Returned with Governor's Proposed Amendments	04/14/1999			
(S) Transmitted to Governor	04/09/1999			
(H) Signed by Speaker	04/09/1999			
(S) Signed by President	04/08/1999			
(C) Printed - New Version Available	04/07/1999			
(S) Returned from Enrolling	04/06/1999			
(S) Sent to Enrolling	04/01/1999			
(S) 3rd Reading Passed as Amended by House	03/31/1999	32	18	
(S) Scheduled for 3rd Reading	03/31/1999			
(S) 2nd Reading House Amendments Concurred	03/30/1999	28	22	
(S) Scheduled for 2nd Reading	03/30/1999			

(H) Returned to Senate with Amendments	03/27/1999			
(H) 3rd Reading Concurred	03/27/1999	75	24	
(H) Scheduled for 3rd Reading	03/27/1999			
(H) 2nd Reading Concurred	03/26/1999	70	26	
(H) Scheduled for 2nd Reading	03/26/1999			
(C) Printed - New Version Available	03/16/1999			
(H) Committee Report--Bill Concurred as Amended	03/16/1999			(H) Transportation
(H) Committee Executive Action--Bill Concurred as Amended	03/16/1999	15	2	(H) Transportation
(H) Hearing	03/10/1999			(H) Transportation
(H) Referred to Committee	02/16/1999			(H) Transportation
(H) First Reading	02/16/1999			
(S) Transmitted to House	02/15/1999			
(S) 3rd Reading Passed	02/15/1999	43	7	
(S) Scheduled for 3rd Reading	02/15/1999			
(S) 2nd Reading Passed as Amended	02/13/1999	39	6	
(S) Scheduled for 2nd Reading	02/13/1999			
(S) Scheduled for 2nd Reading	02/12/1999			
(S) Committee Report--Bill Passed as Amended	02/11/1999			(S) State Administration
(S) Committee Executive Action--Bill Passed as Amended	02/11/1999	5	0	(S) State Administration
(S) Discussed in Committee	02/08/1999			(S) Taxation
(S) Hearing	02/05/1999			(S) State Administration
(C) Introduced Bill Text Available Electronically	01/30/1999			
(S) Referred to Committee	01/30/1999			(S) State Administration
(S) First Reading	01/30/1999			
(S) Introduced	01/30/1999			
(C) Draft Delivered to Requester	01/29/1999			
(C) Draft Ready for Delivery	01/29/1999			
(C) Draft in Assembly/Executive Director Review	01/29/1999			
(C) Draft in Final Drafter Review	01/29/1999			
(C) Bill Draft Text Available Electronically	01/28/1999			
(C) Draft to Drafter - Edit Review [JLN]	01/28/1999			
(C) Draft in Edit	01/28/1999			
(C) Draft in Legal Review	01/27/1999			
(C) Draft to Requester for Review	01/26/1999			
(C) Fiscal Note Probable	12/29/1998			
(C) Draft Request Received	12/29/1998			

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Mohl	Arnie	
Drafter	Higgins	Gordon	
Primary Sponsor	Mohl	Arnie	

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Highways and Roads		Simple	HWY
Indians		Simple	IND
Public Officers and Employees		Simple	POFF

Additional Bill Information

Fiscal Note Probable: No
Preintroduction Required: N
Session Law Ch. Number: 587
DEADLINE
Category: General Bills
Transmittal Date: 02/24/1999
Return (with 2nd house amendments) Date: 04/01/1999

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	10-MAY-99	

AN ACT REQUIRING THAT ONE MEMBER OF THE TRANSPORTATION COMMISSION HAVE SPECIFIC KNOWLEDGE OF INDIAN CULTURE AND TRIBAL TRANSPORTATION NEEDS; AMENDING SECTION 2-15-2502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY PROVISION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-15-2502, MCA, is amended to read:

"2-15-2502. Transportation commission. (1) There is a transportation commission composed of five members. One member must be a resident of and appointed from each of these districts, each composed of the counties named:

(a) District 1. Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Ravalli, Granite, Powell;

(b) District 2. Deer Lodge, Silver Bow, Beaverhead, Madison, Gallatin, Meagher, Broadwater, Jefferson, Park;

(c) District 3. Glacier, Toole, Liberty, Hill, Blaine, Pondera, Teton, Chouteau, Cascade, Lewis and Clark;

(d) District 4. Carter, Powder River, Fallon, Custer, Rosebud, Garfield, Phillips, Valley, McCone, Prairie, Dawson, Wibaux, Richland, Roosevelt, Daniels, Sheridan;

(e) District 5. Golden Valley, Stillwater, Carbon, Big Horn, Yellowstone, Musselshell, Judith Basin, Fergus, Petroleum, Treasure, Wheatland, Sweet Grass.

(2) Of the members appointed from districts 1, 3, 4, and 5, at least one must have specific knowledge of Indian culture and tribal transportation needs. The member provided for under this subsection must be selected by the governor after consultation with the Montana members of the Montana-Wyoming tribal leaders council.

~~(2)~~(3) Two members may not be residents of the same district at the time of appointment or during their respective terms of office.

~~(3)~~(4) Not more than three members may at the time of appointment or during their respective terms be members of the same political party.

~~(4)~~(5) An elective state official or state officer, during the term of office to which elected or appointed,

or a state employee may not be a member of the commission.

~~(5)~~(6) A resolution, motion, or other decision of the commission may not be adopted or passed without the favorable vote of at least three members.

~~(6)~~(7) The commission is allocated to the department of transportation for administrative purposes only as prescribed in 2-15-121.

~~(7)~~(8) The commission is designated as a quasi-judicial board for purposes of 2-15-124; however, the provision of 2-15-124(1) that at least one member of a quasi-judicial board be an attorney does not apply to the commission.

~~(8)~~(9) The commission may adopt rules necessary for its government.

~~(9)~~(10) The director of transportation or the director's designee shall act as liaison between the commission and the department."

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Applicability. [This act] applies to the next appointment period for transportation commission membership.

- END -

I hereby certify that the within bill,
SB 0356, originated in the Senate.

_____

Secretary of the Senate

_____

President of the Senate

Signed this _____ day
of _____, 2019.

_____

Speaker of the House

Signed this _____ day
of _____, 2019.

SENATE BILL NO. 356

INTRODUCED BY A. MOHL

AN ACT REQUIRING THAT ONE MEMBER OF THE TRANSPORTATION COMMISSION HAVE SPECIFIC KNOWLEDGE OF INDIAN CULTURE AND TRIBAL TRANSPORTATION NEEDS; AMENDING SECTION 2-15-2502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY PROVISION.

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(2) Of the members appointed from districts 1, 3, 4, and 5, at least one must have specific knowledge of Indian culture and tribal transportation needs.

~~(2)~~(3) Two members may not be residents of the same district at the time of appointment or during their respective terms of office.

~~(3)~~(4) Not more than three members may at the time of appointment or during their respective terms be members of the same political party.

~~(4)~~(5) An elective state official or state officer, during the term of office to which elected or appointed, or a state employee may not be a member of the commission.

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~~(6)~~(7) The commission is allocated to the department of transportation for administrative purposes only as prescribed in 2-15-121.

~~(7)~~(8) The commission is designated as a quasi-judicial board for purposes of 2-15-124; however, the provision of 2-15-124(1) that at least one member of a quasi-judicial board be an attorney does not apply to the commission.

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~~(9)~~(10) The director of transportation or the director's designee shall act as liaison between the commission and the department."

NEW SECTION. **Section 2. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 4. Applicability.** [This act] applies to the next appointment period for transportation commission membership.

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(3) OF THE MEMBERS APPOINTED, AT LEAST ONE MUST BE A CURRENT OR FORMER HIGHWAY CONSTRUCTION CONTRACTOR. IF THE MEMBER APPOINTED WILL BE ACTIVELY ENGAGED IN THE BUSINESS OF HIGHWAY CONSTRUCTION DURING ANY PART OF THE MEMBER'S SERVICE ON THE COMMISSION, THE MEMBER MAY NOT VOTE ON THE AWARD OF ANY HIGHWAY CONSTRUCTION CONTRACT INVOLVING THE MEMBER'S HIGHWAY CONSTRUCTION BUSINESS.

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MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN MACK COLE,** on February 5, 1999 at 10:00 A.M., in Room 331 Capitol.

ROLL CALL

Members Present:
Sen. Mack Cole, Chairman (R)
Sen. Don Hargrove, Vice Chairman (R)
Sen. Jon Tester (D)
Sen. Jack Wells (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Keri Burkhardt, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: SB 352, SB 356, 1/30/1999
Executive Action: SB 352, HB 66, HB 194, HB 197

HEARING ON SB 356

Sponsor: **SEN. ARNIE MOHL, SD 39, KALISPELL**

Proponents: **Mike Foster, Montana Contractors Association**
George Oshensky, Confederated Salish and Kootenai

Opponents: None.

Information: **Wymand McDonald, Coordinator of Office of Indian Affairs, Office of the Governor**
Marv Dye, Montana Department of Transportation

{Tape : 1; Side : A; Approx. Time Counter : 6 - 18}

Opening Statement by Sponsor:

SEN. ARNIE MOHL, SD 39, Kalispell, explained that the commission for the Department of Transportation has a director and five commissions selected by the Governor. He said that a lot of work is done on reservations and the reservations do not have representation. In the original bill, he had six commissions instead of five. The sixth member would not represent a financial district but would have to be from a reservation. The Governor had some concerns with the idea that the sixth commission did not represent a financial district. Therefore, they changed the bill to say, "Of the members appointed from districts 1,2,3,4, and 5, at least one must have specific knowledge of Indian culture and tribal transportation needs". This does not mean that the person has to be a tribal member. This might be better than the original proposal because it opens up the communications a lot more. He said there are problems, not only on reservations but all over the state. He added that by having a commissioner who has full knowledge of Indian culture and tribal transportation needs, the Department of Transportation will have better communications. He has worked with the tribal council to change regulations to allow Native American workers from one reservation to continue working with the crew on other reservations, so those people don't have to be laid off. After coming back from the council meeting, he felt the biggest problem was the lack of communications. There is an amendment to this bill **EXHIBIT(sts29a01)**. There is concern that the law does not say how they have to be represented. He said that many times people on the highway commission do not have any knowledge or experience with roads. The amendment requires one member to be a current or former highway construction contractor that will be appointed by the governor from a list, of three nominees, submitted by the Montana Contractors Association. The only time this would be a conflict of interest would be if a commissioner is bidding on a project, in such a case, the commissioner could not vote on awarding that project. It will be beneficial to the commission to have someone with some experience. Many boards have members, who have the technical experience, but through there professions have conflicts in one way or another. He added that the one commissioner will not benefit because the other four members have the right to vote as well.

{Tape : 1; Side : A; Approx. Time Counter : 18 - 26}

Proponents' Testimony:

Mike Foster, Montana Contractors Association, said that they support the bill and the amendment being proposed. He explained that **SEN. MOHL** used to be the president of the Montana Contractors Association and was a chairman on their Highway Executive Committee. The committee is made up of highway contractors in their association. The meetings are attended by the Department of Transportation and the Federal Highway Administration. **SEN. MOHL,** as chairman of that committee, led the way in opening up discussion concerning the tribes in Montana. There are issues that contractors have to deal with when they do highway construction work on the reservations. **SEN. MOHL** has facilitated better communications with some of the tribes and they have benefitted greatly. **SEN. MOHL** felt that a good way for the tribes in Montana to have some input and authority, with issues that are associated with highway construction, is to have a member on the transportation commission be a Native American or someone who is knowledgeable of Native American issues. This is another step in an ongoing effort to having the Native Americans of Montana more involved in highway construction matters. Also, he addressed the proposed amendment. He explained that an initial reaction may be that a member from the industry will have an automatic conflict of interest, but most commissions in this state have an industry representative on the board. The boards and commissions work and work well. The contractors have expertise that no one else has about highway construction and will give the commission insight into the issues and concerns of contractors. He handed out copies of the existing Montana Transportation Commission **EXHIBIT(sts29a02).**

{Tape : 1; Side : A; Approx. Time Counter : 26 - 44}

George Oshensky, Confederated Salish and Kootenai, read the testimony of Michael Pablo, the Chairman of the Confederated Salish and Kootenai Tribes and the Chairman of the Montana Wyoming Tribal Council **EXHIBIT(sts29a03).** He said that throughout this legislative session we are going to see efforts to try and bring the Indian people onto these committees and commissions to try to have their input on things. He added that they are 7% percent of the population and 9% percent of the land mass. The only way to bring our way out of the entangled mess of jurisdiction is to bring the Indian people into these things to get their input. He urged the committee to pass the bill.

Informational Witnesses:

Wymand McDonald, Coordinator of Office of Indian Affairs, Office of the Governor, explained that he is not speaking in behalf of the Governor at this time. He said this is a positive step

forward to include the Indian people of Montana. He said he has some concerns with the amendment. In some cases, selecting a non Indian appointed to the board, who was to represent the Indian people of Montana could cause objections with the majority of the tribal states, unless the person was from Indian decent and from one of the tribes in Montana. Secondly, he questioned which members the contractor experience applies to. He said that if it only places this qualification to the person who is minority member, it may cause legal consequences.

Marv Dye, Montana Department of Transportation, said that he came to the hearing to answer any questions the committee may have.

Questions from Committee Members and Responses:

SEN. WELLS asked **SEN. MOHL** how he viewed the recommended amendment that would change the stated position in the bill from having a member who is knowledgeable to a member who is a tribal member. **SEN. MOHL** explained that the Governor wanted the option to choose someone from the reservation or someone who is knowledgeable.

SEN. TESTER asked **Marv Dye** to explain what the commission does. **Marv Dye** explained that the commission, by statute, is made up of five people. He said that one member represents each financial district. The bulk of their activities are selecting projects and approving all the information that goes into the contractual language. He added that all specifications are ran through the committee for better input. The commission sets the speed zones and is the board of appeals for disputes with contractors in areas of liquidated damages.

SEN. TESTER asked **Mike Foster**, how many highway construction companies comprise the Montana Contractors Association. **Mike Foster** said that they have about 120 members that are contractors and of those he estimated over half are in highway construction.

SEN. COLE asked **SEN. MOHL** where it was stipulated in the bill that the commissioner would not have to be a tribal member if he lived on the Indian reservation. **SEN. MOHL** said that the person does not have to live on the Indian reservation, he just must have full knowledge of the tribal needs. He added that when he originally drafted the bill, he wanted the commissioner to be a tribal member but the Governor wanted it to be able to choose someone with specific knowledge of the Indian culture and tribal transportation needs. He said that if it is limited to a tribal member, a conflict could arise as to which tribe to choose the member from. The Governor has the option to pick someone that the Tribal Council recommends. **SEN. COLE** said that one member

must have full knowledge of Indian culture and transportation needs, but the person may have both or may not. Further, he said that if the government appoints someone with those specific knowledges, he can see a problem arising with the people in that district feeling like they are not getting the full representation on the board as the people from other districts. He asked why a member was not added to the present five members, rather than getting into a conflict with one of the present districts. **SEN. MOHL** said that he originally created a sixth member, but that also created problems because the member doesn't represent any financial district, therefore, doesn't have a say. He added that the tribal reservations are in these districts. Currently, there is not a set of guidelines, for the Governor, in choosing these commissioners. He said that they are trying to set up a few qualifications for these members. One out of the five will have tribal knowledge and one out of the five will have experience in highway construction. He doesn't think that the districts care that much, as long as they are well represented. **SEN. COLE** asked if there are any other limitations other than the restriction on the number of commissioners who are members of the same political party. **SEN. MOHL** said there were no other restrictions other than, no more than three members from the same political party. He said that presently there are two democrats, two republicans, and one independent.

{Tape : 1; Side : A; Approx. Time Counter : 44 - 51}

Closing by Sponsor:

SEN. MOHL stated the two positions are two different positions. He explained that the member can only represent the tribes or the contractors, not both. The tribal representation will be from one district, and the contractor will be from another district. This creates some criteria for the selection of these commissions. He urged the committee to pass this bill.

EXHIBIT(sts29a04) was entered into the record from the Fort Peck Tribes.
EXHIBIT(sts29a05) was entered into the record from the Black Feet Nation.

HEARING ON SB 352

Sponsor: **SEN. DALE MAHLUM, SD 35, MISSOULA**

Proponents: **Jim Jacobsen, Administrator, Veterans Affairs Division**
Hal Manson, American Legion
Dee Brown

Opponents: None

Information: **Matthew Cohn, Department of Commerce**

Opening Statement by Sponsor:

SEN. DALE MAHLUM, SD 35, MISSOULA, explained that this is an act designating the Missoula Memorial Rose Garden as a State Veterans' Memorial Rose Garden and as a State Korean Veterans' Memorial. He said that Missoula has a very large contingent of veterans who have spent many years putting together a beautiful area that encompasses shrines dedicated to the memories of departed veterans. These are important to the living survivors and their families. This bill has no conflict with other veteran memorials in our state. This bill was requested by various members of the veteran committees in Missoula.

Proponents' Testimony:

Jim Jacobsen, Administrator, Veterans Affairs Division, said in the behalf of the 92,000 thousand veterans and their 140,000 thousand family members, the division is in full support of the memorial garden for veterans as well as the Korean memorial.

{Tape : 1; Side : B; Approx. Time Counter : 48 - 51; Comments : Tape recorder problem, did not record this portion, in the beginning of side B.}

Hal Manson, American Legion, urged the committee's support.

Dee Brown, explained that she has a family line of veterans and encourages the committee to support this bill.

Informational Testimony:

Matthew Cohn, Department of Commerce, explained that the Missoula memorial rose garden would be identified on the next reprint.

Closing by Sponsor:

SEN. MOHL explained that other cities are fine with the memorial being in Missoula. He encouraged the committee to pass the bill.

{Tape : 1; Side : B; Approx. Time Counter : 51 - 71; Comments : Resumed normal taping at 51.}

EXECUTIVE ACTION ON SB 352

Discussion:

SEN. WELLS said that the bill says, "Korean veteran memorial," which may cause confusion. The way its stated, it sounds like Korean veterans rather than veterans of the Korean conflict.

SEN. COLE said that it seemed confusing as to whether they were establishing a new memorial act.

It was decided that conflict should be entered into the bill.

Motion/Vote: SEN. WELLS moved that **SB 352 BE AMENDED. Motion carried 5-0.**

Motion/Vote: SEN. WELLS moved that **SB 352 DO PASS AS AMENDED. Motion carried 5-0.**

EXECUTIVE ACTION ON HB 66

Discussion:

SEN. COLE said he doesn't believe that Fish, Wildlife and Parks should be exempt from this bill.

Motion: SEN. COLE moved that **HB 66 BE AMENDED.**

Vote: Roll call vote was taken. **Motion carried 4-0.**

Motion/Vote: SEN. HARGROVE moved that **HB 66 BE CONCURRED IN AS AMENDED. Motion carried 4-0.**

EXECUTIVE ACTION ON HB 194

Motion: SEN. WELLS moved that **HB 194 BE CONCURRED IN.**

Discussion:

SEN. WELLS said that he likes the idea of having the cumulative amount and the number of people being effected.

SEN. COLE said that there is no fiscal impact.

Vote: Motion carried 4-0.

{Tape : 1; Side : B; Approx. Time Counter : 71 - 88}

EXECUTIVE ACTION ON HB 197

Discussion:

Discussion was held as to what a rulemaking note is. Currently, there is no such thing as rulemaking note. It is patterned somewhat like a Fiscal Note. The same process that is used for a Fiscal Note will probably apply to this.

SEN. HARGROVE said that this might complicate floor action on second reading. He added that it could be used as an obstructionist tool.

Motion: SEN. HARGROVE moved that **HB 197 BE AMENDED.**

SEN. WELLS said that second reading is too late. He agreed that it might be used as a diversionary or blockading tactic. He said he would like to find a way for the members, of the house it is introduced in, to bring it up. He added that the committee may be sufficient.

Vote: Motion carried 4-0.

Discussion:

Discussion was held on ,"the subject matter to be addressed by rules that could instead have been adequately addressed in the bill and the reasons why the subject matter was not addressed in the bill". It was decided that the statute should be a broad guidance, not a micro management tool. The agency that would be adopting the rules would use this as an opportunity to clarify things they didn't understand.

Motion/Vote: SEN. HARGROVE moved that **HB 197 BE CONCURRED IN AS AMENDED. Motion carried 4-0.**

{Tape : 1; Side : B; Approx. Time Counter : 88 - 107}

EXECUTIVE ACTION ON HB 198

Discussion:

SEN. WELLS said he is concerned with the assumption on the Fiscal Note that says that extensive economic impact statements could significantly increase costs but the costs are indeterminable.

He said there are some benefits of this legislation but he is concerned that it will increase costs down the line.

SEN. HARGROVE said that SB 11 deals with the reorganization of committees.

SEN. WELLS said that SB 11 gets rid of the code committee and this bill says "upon written request of the administrative code committee".

David Niss, Legislative Division, explained that SB 11 puts the code committee to sleep and parcels the committees functions out among the six large committees, which will accede to the powers of the code committee. At some point this bill and the bill creating the reorganization of the interim functions, will have to be coordinated. He said he doesn't know if SB 11 has the coordination instruction. He clarified that this is an existing ability of the code committee, they are just adding the 15 legislators.

The committee decided to hold off acting on this bill. **SEN. WELLS** offered to gather some information from the sponsor of the bill. They discussed current law, that the code committee can request economic income statements. This bill just adds in the request from legislators.

EXECUTIVE ACTION ON HB 36

Motion: **SEN. HARGROVE** moved that **HB 36 BE CONCURRED IN.**

Discussion:

SEN. WELLS questioned the word militia being taken out of the bill.

The committee decided that the sponsor should answer some questions for the committee before action is taken.

SEN. HARGROVE withdrew his motion that **HB 36 BE CONCURRED IN.**

DISCUSSION

The committee discussed having an information meeting on SB 228 on the upcoming Monday. Various members of the working group would be invited to come in to answer questions from the committee.

ADJOURNMENT

Adjournment: 11:46 A.M.

_____
SEN. MACK COLE, Chairman

_____
KERI BURKHARDT, Secretary

MC/KB

EXHIBIT(sts29aad)

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN MACK COLE,** on February 8, 1999 at 10:00 A.M., in Room 331 Capitol.

ROLL CALL

Members Present:
Sen. Mack Cole, Chairman (R)
Sen. Don Hargrove, Vice Chairman (R)
Sen. Jon Tester (D)
Sen. Jack Wells (R)

Members Excused: Sen. Bill Wilson (D)

Members Absent: None.

Staff Present: Keri Burkhardt, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: HB 175, 1/27/1999
Executive Action: HB 175, HB 36

HEARING ON HB 175

Sponsor: **REP. KIM GILLAN, HD 11, BILLINGS**

Proponents: **Joe Kerwin, Deputy of Elections, Secretary of State**

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter :11 - 21}

REP. KIM GILLAN, HD 11, Billings, explained that **HB 175** allows, but not requires, candidates to file via the fax. Technology today has made the quality of faxed documents considered first hand. Initiatives last session gave permission to the Secretary of State to receive some other business filings by fax without having to have them followed up within 5 days with a paper copy. This is permissive, so in county offices where a fax is not available this bill would not require them to purchase a fax machine. This bill focuses on the Secretary of State. The nomination form still has to be notarized and the filing fee must still be sent in. She said that many candidates make the decision to run well in advance of the deadline to file for nomination, but when there are distances involved the ability to file by fax could be very significant.

Proponents' Testimony:

Joe Kerwin, Deputy of Elections, Secretary of State, stated they support the bill. It gives them a little more flexibility in allowing candidates to file. He said people have been inquiring about filing via the fax. They decided since it wasn't clear in the law that they could file by fax they would not allow people to. By putting this clearly in the law it allows them to do that. The candidate filing form would still need to be notarized and they would still have to pay their filing fee. This bill makes it easier for candidates to get on the ballot and increases their access. This is optional and doesn't require the counties to purchase a fax machine if they do not have one.

Questions from Committee Members and Responses:

SEN. TESTER asked if people could currently fax and send in a hard copy to meet the deadline. **Joe Kerwin** said the hard copy would have to be in by the filing deadline, therefore it would not be necessary to fax. **SEN. TESTER** asked how the notarization would work. **Joe Kerwin** said the fax would have to be received by the deadline along with the filing fee, so the form would have to be notarized prior to being faxed. He added that the election bureau is responsible for the filing of notaries in the state and they have a computerized list of all the notaries. He said they can check the notaries and pull their application to check signatures if there is ever a question of authenticity.

SEN. COLE asked if e-mail would also be accepted as well. **Joe Kerwin** said that e-mail would not be accepted because it would not be able to be notarized. **SEN. COLE** asked if this includes write-ins as well. **Joe Kerwin** said they want to be able to

provide write-in candidates with the same opportunity to get their filings in as any other candidate.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 21 - 31}

REP. GILLAN urged the committee to support this bill.

DISCUSSION ON HB 36

REP. JOE QUILICI, HD 36, Butte, explained that HB 36 moves the date from 1997 to 1999. The proposed date changes are needed to ensure that Montana can adopt a state law, military related federal laws and regulations that have changed and were amended in 1997. The Montana Supreme Court said that the legislature has the right to adopt existing federal laws and regulations as state law but it does not have the right to adopt changes in federal laws and regulations that are to occur sometime in the future. This bill is just abiding by a supreme court ruling to say that our laws cannot be changed prospectively. He added that the House State Administration Committee changed every place that said military forces or militia to national guard. He said that he does not know why they changed it.

SEN. WELLS said that the objective may have been to separate the federal regulations which govern National Guard and other members on active duty. There may be differences in the way our state militia is regulated.

REP. QUILICI said that if it defines it a little more closely and retains our state rights, then he doesn't have a problem with the change.

EXECUTIVE ACTION ON HB 36

{Tape : 1; Side : A; Approx. Time Counter : 31 - 48}

Motion/Vote: **SEN. TESTER** moved that **HB 36 BE CONCURRED IN. Motion carried 5-0.**

DISCUSSION

The committee discussed a letter to Kansas congressmen, formerly requesting the assistance of the congressman, to prohibit the federal government from claiming any funds Kansas has received from its tobacco litigation settlement. They discussed putting a similar message to Montana state's congressional delegation in a joint resolution.

EXECUTIVE ACTION ON HB 175

Motion/Vote: **SEN. TESTER** moved that **HB 175 BE CONCURRED IN. Motion carried 4-0.**

EXECUTIVE ACTION ON SB 292

SEN. TESTER said he would like to incorporate a similar bill he is sponsoring, into this bill. It would change the bill to include making false statements about one's own voting record.

Motion/Vote: **SEN. TESTER** moved that **SB 292 BE AMENDED. Motion carried 4-0.**

Motion/Vote: **SEN. TESTER** moved that **SB 292 BE CONCURRED IN AS AMENDED. Motion carried 4-0.**

DISCUSSION ON SB 356

SEN. COLE said that people from financial districts may not feel like they are receiving the representation from the commissioner if they feel the commissioner will be more focused on the needs of the reservation. He said that he thinks there may be a conflict of interest. He added that he would rather see someone with background in Indian transportation needs, and was not a member from any other district. He said the down side to having six members is that the group could have ties. He talked about the amendment for the bill, which required the member to be a current or former contractor, and said that it could create conflicts. The sponsor said that it wouldn't create any conflicts as long as the contractor couldn't vote on awarding the contracts. **SEN. COLE** said that the people in the district, represented by the contractor, may not feel like they are getting the representation the other districts are receiving because the contractor would not be able to vote on half the issues. He replied the contractor should be inactive or retired for 3 years

before he is allowed serve on the board. He added that people on other boards do not get their money directly from the state.

SEN. HARGROVE said that many other committees and boards have members with expertise in specific fields. He said that he realizes this one is unique. He asked **David Niss, Legislative Council,** if there are legal problems with having the contractor serve as a commissioner.

{Tape : 1; Side : B; Approx. Time Counter : 48 - 62}

Mr. Niss, said that the legal problems could be prevented by having the member declare he has a conflict of interest and choose not to vote on the issue. He said that many boards have requirements to have representation from a profession.

SEN. COLE said that the problem may be eliminated by having the member be inactive or retired.

Mr. Niss, explained that the statute says the member has to be an active highway contractor but is disqualified from voting for the purposes of awarding any contract that might involve their interest.

SEN. HARGROVE said that in order to eliminate the conflict of interest he wanted to amend the amendment.

Motion: **SEN. HARGROVE** moved that the amendment to **SB 356 BE AMENDED.**

SEN. TESTER said that this is a little bit different, in that the money they are paid is coming directly from the state. If something comes up that seems inappropriate it will make the entire outfit look bad, even if everyone acted in the best of interests.

SEN. WELLS asked **Mr. Niss** to clarify what the conceptual amendment would say.

Mr. Niss said that it would say that the member is required to disqualify himself on the awarding of any contracts that directly effect his interests if he is a current contractor. He added rather than saying that any contractor shall be disqualified from voting they could word the amendment to say the contractor is disqualified from voting.

SEN. COLE suggested that they give the Governor the option of appointing a highway contractor. He said that if a contractor did not step forward to choose from, then the position may be vacant.

SEN. WELLS suggested that they require the Governor to appoint a highway contractor if he is presented with a list.

SEN. COLE said that they should possibly remove the Contractors Association from the bill.

SEN. WELLS said that the wording should say that if a list is not submitted to the Governor, then he is free to appoint others.

{Tape : 1; Side : B; Approx. Time Counter : 62 - 79}

Motion: **SEN. HARGROVE** withdrew motion to **AMEND SB 356.**

SEN. WELLS said under current law the Governor could appoint a contractor and the contractor may or may not be a member of the Contractors Association or on the list.

SEN. HARGROVE said that the amendment is saying that one person must be chosen by from the list submitted by the Contractors Association and, in essence, the association is appointing one person to the commission.

SEN. WELLS said that even if the member should declare himself disqualified, it may not be obvious to the committee when a conflict of interest arises. If the member's company is involved in the bid, he should have to bring this to the commission's attention and disqualify himself.

SEN. HARGROVE said that the disclaimer should be included in the amendment. The member must make a statement of disqualification.

Motion/Vote: **SEN. HARGROVE** moved that **SB 356 BE AMENDED.**

INFORMATION MEETING ON SB 228

Joe Kerwin, Deputy of Elections, Secretary of State, said many questions came up during the working group, mainly about the date when the election would be held. There was concern as to whether the date should be in May or whether the political subdivisions should be given some flexibility as to when they will hold their

tax election. There was also concern from the schools about having the election in May as opposed to April. The consensus from the group was that they could go with the May election if they had the option of holding a November election as well so they could choose one or the other. The state election would still be held in May, but the counties could have the option to hold their tax election in November. They are only allowed to have their tax election once during the year. The group wanted contingent provision put in the bill. They also felt that property valuations from the previous year should be used. There were some questions whether SB 228 needed to be as comprehensive as it is or whether a simpler bill could be drafted to effectuate the changes that would be necessary. The date for the tax election still needs to be decided.

SEN. COLE asked when various entities would know what their values were.

Dolores Cooney, Department of Revenue, explained how the mill levy works **EXHIBIT(sts31a01).** She said a mill levy is basically a calculation between the budget for the jurisdiction and the taxable value. The mill levy is what is multiplied against the taxable value for each properties in order to get to the basic tax. She explained the history of how the assessment process works **EXHIBIT(sts31a02).** She said the assessment starts with the valuation and classification of the property. Real property and personal property valuation dates are January 1st. Once the basic valuation and classification is done, they begin on the application of the special tax classification such as the class 4 reductions, which is based on income, the disabled veterans' reductions, and the exemptions. She explained that those are applied before the taxable value is calculated. Currently, the assessments are then mailed. She pointed out the dates that were projected prior to this legislative session for the mailing of the assessments this year. She said once the assessments are mailed the taxpayers have rights for review. They have the right to request from the Department of Revenue for a review of their appraisal within 30 days of the mailing of the assessment. That process is prior to the beginning of the county tax appeals and the state tax appeals that occur later in the year. She said there are basically 12 classes of property. If the certification of the property is moved up, the one class that may present a problem is the centrally assessed properties because they need to have their year end calculations, in the individual industries, in order to project their unit value. Currently, the certification of the taxable value, which is with the mill levy, happens the 2nd Monday in July and is reported by taxing

jurisdiction. The class 4 separation was required before CI-75. The certified mill levy calculation starts with the taxable valuation of the previous year and the mill levy from the previous year and goes through a series of calculations **(SEE EXHIBIT 1).** The last page shows a hypothetical year 1 and year 2 in the taxing jurisdiction. Year 1 describes the scenario if the jurisdiction lost taxable value. In this case, there would be a rise in that mill levy. Year 2 describes the scenario if the jurisdiction increased the taxable value. In this case the mill levy would decrease. She gave examples of some counties who saw a decrease in taxable valuations.

SEN. HARGROVE asked what some of the problems would be if they used the previous year's values and if these problems were in surmountable.

Dolores Cooney said that the department would have to move up the assessment dates in order to get that mill certified two months earlier than it currently is. The one exception could be the centrally assessed properties, which don't come in until about year end.

SEN. HARGROVE asked what the difficulties would be for the local jurisdictions if they used last year's valuations.

Dolores Cooney, said there would only be a problem in the case of a decrease in taxable valuation. She added that the local jurisdiction would probably know about the decrease ahead of time.

SEN. HARGROVE asked if they could handle that.

Dolores Cooney, said they would want to be exact possible, but it would be possible to get the bulk of the value.

SEN. HARGROVE asked if they would put it off on paper until the next year.

Dolores Cooney said that under CI-75 the mills have to be set and voted on. Most of the time there would be an increase in taxable value but they would need to be prepared for a decrease. She added that she believes there is a provision for an emergency election in the event of a major decrease.

SEN. HARGROVE asked **Mr. Kerwin** to comment on the discussion held during the working group meeting because it was his understanding that over coming the problems were not insurmountable.

Mr. Kerwin said he wasn't an expert in property valuations but the general discussion seemed to be that it was not insurmountable. He suggested that he ask some of the other people involved.

SEN. HARGROVE asked **Gordon Morris** to speak on the subject.

{Tape : 1; Side : B; Approx. Time Counter : 79 - 90}

Gordon Morris, Director, Montana Association of Counties, said that with the May suggested primary date and the November general election option, they would have one date but two opportunities. For the first year the problem is going to be getting a budget. Then it will be living with it every year thereafter. He recommended the county budget based upon the prior year's taxable value. They will always be one year behind after the second year. He added there is no emergency provision. The emergency provision applies to the state legislature only. The county has no emergency provision to go to the voters for a tax increase. The only thing they could do is set the number of mills and if the value of that mill goes down below the previous year, they would have to reduce their budget.

SEN. HARGROVE said there is still the two mill emergency that is covered under CI-75 for certain kinds of emergencies.

Mr. Morris said that a vote under CI-75 would be required.

SEN. HARGROVE said that they will have to have a special section for calendar year 1999. He asked if they can do something in the section to take care of the problem for the first year.

Mr. Morris explained that the problem will be getting values that are true and accurate by August 1st. Currently, the department certifies the values and the certification is the assumed value that mill will raise for every taxing jurisdiction relative to the budgets they will set in August. He said he doesn't see a real problem with working from the previous year.

SEN. ALVIN ELLIS, SD 12, Red Lodge, asked if the certification could be advanced to where the June primary currently is.

Dolores Cooney, said they could produce the year's assessments earlier. She said that May 1st would be the projected certification date moved from the 2nd in July.

SEN. HARGROVE asked if they could use those assessments for an election.

Dolores Cooney, said that they could use the combination of the assessments and last year's budget. The central assessment would be missing.

{Tape : 2; Side : A; Approx. Time Counter : 90 - 119}

Mr. Morris, said the bill could be simplified considerably. He suggested that the committee put in a statement of intent, a declaration of policy, and strike everything from the bill except for Section 66-68. This Section defines what a tax election is. He that they are dealing with issues which would not be considered tax elections by the drafters of CI-75. He said, the intention of CI-75 is to provide for two opportunities to go to the voters with a tax election and those dates are the June primary and the November general election. There would not be enough time to prepare for a June primary in 1999 so the only opportunity for a tax election in 1999 is November for tax purposes associated with fiscal year 2001.

SEN. HARGROVE stated that the committee had to make a policy decision as to whether it was the intent of the voters to have tax elections held on two dates.

Mr. Morris replied he thinks that the drafters meant that there were two opportunities, but an entity could only use one of them, and those were the June primary and the November general election.

SEN. HARGROVE said asked if he was still anticipating one tax election per year.

Mr. Morris said there were two opportunities but the entity could only use one of them.

SEN. ELLIS asked if a county government could use a different date than a school or city government.

Mr. Morris explained there is no logic in CI-75 to dictate that all jurisdictions vote simultaneously.

SEN. HARGROVE said that the reason they gave the working group the date of the 1st Tuesday in May was to try and get that current year's assessment. If everyone is comfortable with not

having to try to squeeze everything they can out of that, the June primary might be alright.

Don Waldron, Rural Education Association, said that moving to June would not work for them. He said that they need to be moved far enough from June to be able to notify their staff if they are going to be rehired or not.

SEN. ELLIS said he has a bill that does not have a contingent provision. It also limits schools to one election and puts it at the primary time. He said that he doesn't have a problem with the date change but he is concerned that they don't overly lengthen the campaign cycle for the legislators. He said even if CI-75 does not come into effect, it would be better to have this limit on schools.

Loran Frazier, School Administrators, said that any time the committee could give schools prior to June would be appreciated because if the election doesn't go well, they will be cutting teachers and those people will be looking for jobs in June. This is late for teachers looking for work, especially if they have to relocate.

SEN. COLE asked if May would be better.

Mr. Frazier said they could probably live with May. He added they would have to have the date around the time they would know what the mill value is.

Robert Throssell, Montana Association of Clerk and Recorders and Election Administrators, said the June primary could be moved back but it would entail more changes. They need to think two months in advance for the election administrator to get the ballots ready.

Mr. Waldron, stated he agrees there is more then there has to be. They should really focus in on revenue dates and election dates.

Alec Hansen, League of Cities, said they want one date as close as possible to the beginning of the fiscal year for the finance election required under CI-75. He said a good compromise between the concerns about the fiscal year and the construction season is the date early in May. He said for political purposes they would like to keep the municipal and primary dates in September and November in the odd number years. There is a lot of concern about having a municipal primary election sometime in May, which would give a 7 or 8 month campaign season. He said that the

municipal primary in September shouldn't be a problem because they have paid for it.

SEN. TESTER asked if they could have certified values on everything except the central assessments by the middle of March.

Dolores Cooney said she believed they could.

SEN. TESTER asked why the central assessments can not be completed in time.

Dolores Cooney explained they are valued on a unit basis and their year end reports are critical in their valuation process. She said she would prepare some information for him.

SEN. TESTER said he is looking for reasons why it can't be done.

Mr. Kerwin said if they are going to have ballots available, they need to make them all available at once. He said they would be certifying the ballot, to the counties, for a May election on February 27 and the clerks would begin certifying and printing the ballots on March 3rd. A brief discussion was held as to when the election would be held this year. It was the consensus that they were only looking at one opportunity for a tax election this year and it would be set for the general election date in November.

Mr. Hansen, said there are city and county mill levies that may need to be renewed before the November election date. He said for this transition period he recommends setting the date at something that would get them as close to the beginning of the fiscal year as possible.

Mr. Kerwin said that they need to address how tax elections will be held in 1999.

SEN. ELLIS said that schools must have a tax election this spring.

SEN. HARGROVE said September or June would be the two choices.

Mr. Frazier, Mr. Waldron, and Mr. Hansen, said their assumption was that the May election would be starting in 1999.

SEN. HARGROVE asked **Mr. Kerwin,** assuming the bill was moved through as fast as possible, would they be able to hold the election in May this year.

Mr. Kerwin said for local governments it would be possible to get their information into the clerks in time to get the ballots printed but not the state. He said that he is not sure when all the revenue bills would work their way through the legislature.

{Tape : 2; Side : A; Approx. Time Counter : 119 - 126}

A brief discussion was held as to whether they could shorten up the notification dates for this one election. **Mr. Kerwin** said that it is possible because it is not a federal election but in the future they would like to keep it at 45 days. He said the candidate filing dates would change automatically. They are currently set at 75 days before the primary, however, they are set by statute so the time period can be shortened in the bill. He added the number of ballot issues will dictate how long it will take for printing. He said that the more issues on the ballot the greater the need for the voters to know what is going to be on the ballot. He said that because this is a transition, there can be some flexibility.

SEN. TESTER asked if **Dolores Cooney** if she would find out if the certification dates could be moved up starting in 1999. The school elections will not be able to be held unless part of those are certified.

Mr. Throssell said his people face two problems. The physical process of printing the ballots requires time to review the proofs. If there were a large number of ballots it compounds the process. The counties that have gone to electronic voting punch cards must have their machines programmed. Depending on the number of issues on the ballot they may not have the computer capacity to do them all, which would cause them to use paper as well as the computer. They will work very hard this first time through.

ADJOURNMENT

Adjournment: 12:06 P.M.

_____
SEN. MACK COLE, Chairman

_____
KERI BURKHARDT, Secretary

MC/KB

EXHIBIT(sts31aad)

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN MACK COLE**, on February 10, 1999 at 10:00 A.M., in Room 331 Capitol.

ROLL CALL

Members Present:
Sen. Mack Cole, Chairman (R)
Sen. Don Hargrove, Vice Chairman (R)
Sen. Jon Tester (D)
Sen. Jack Wells (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Keri Burkhardt, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: SJ 4, 1/18/1999; HB 141, 2/4/1999
Executive Action: SB 292, SB 356, HB 141

HEARING ON HB 141

Sponsor: **REP. TONI HAGENER, HD 90, HAVRE**

Proponents: **Joe Kerwin, Deputy of Elections and Legislative Bureau, Secretary of State**
Robert Throssell, Montana Association of Clerks and Recorders

{Tape : 1; Side : A; Approx. Time Counter : 10 - 19}

Opening Statement by Sponsor:

REP. TONI HAGENER, HD 90, Havre, said this bill is requested by the Secretary of State. It is an act to change the voter registration form and thereby delete some unnecessary language. They are requesting improving the form and putting all the necessary information on one card. It will be more easily filed and more comprehensive. This does not eliminate all of the language. It is a time saver, money saver, and space saver. As the old forms run out, they will print the new forms on a simpler single form.

Proponents' Testimony:

Joe Kerwin, Deputy of Elections and Legislative Bureau, Secretary of State, passed out the current voter registration form **EXHIBIT(sts33a01).** He explained they would like to give their office and the Clerks and Recorders office the option to print the card as it currently is or without the unnecessary information on it. This information has been changing. Some of it is already included in the Board of Declaration. Not many people keep the attached card. They usually keep the confirmation mailing that is sent out afterward. This will save some money and give them some flexibility. It removes the mandate requiring them to include the information, but allows the option to continue printing the additional language on there.

Robert Throssell, Montana Association of Clerks and Recorders, said that this is an added expense. The added information is overkill. He added this bill will help stream line the process.

Questions from Committee Members and Responses:

SEN. WILSON asked **Joe Kerwin** to explain the form with the carbon. **Mr. Kerwin** said it is the same card as he handed out, but in a different form. He explained different counties print their cards in different formats. **SEN. WILSON** asked what information would be taken out. **Mr. Kerwin** said the small stub would be taken out. All that would be given out is the card itself and the voter declaration. He said they will follow up with a confirmation mailing from the clerk and recorders, which will have the pertinent information. **SEN. WILSON** asked if that portion was redundant. **Mr. Kerwin** explained part of the information would be included in the voter declaration and part of the information would be included in the confirmation mailing.

Closing by Sponsor:

REP. HAGENER urged the committee to support this legislation.

HEARING ON SJ 4

Sponsor: **SEN. TOM BECK, SD 28, DEER LODGE.**

Proponents: **Betty Babcock, President, Montana Capitol Restoration Foundation**
Andrew Malcolm, Executive Assistant, Governor Bob Brown,
Doug Monger, Fish Wildlife, and Parks

Information: **Bill Bayless, General Services Division, Department of Administration**

{Tape : 1; Side : A; Approx. Time Counter : 19 - 34}

Opening Statement by Sponsor:

SEN. TOM BECK, SD 28, Deer Lodge, said they would like to place memorabilia in the Capitol to honor Representatives and Senators that will harmonize with the restoration of the Capitol. They also want to commemorate the United States Senator and Ambassador, Mike Mansfield. They are separating the Mike Mansfield portion out of the resolution. They want a permanent placement for the House of Representatives' memorial, as well as the Senate. They would also like the donors of the restoration project recognized. When they separate the Mansfield portion out of this resolution, he will be asking the committee to give a committee resolution that will continue with the Mike Mansfield portion.

Proponents' Testimony:

Betty Babcock, President, Montana Capitol Restoration Foundation, read **EXHIBIT(sts33a02).**

Andrew Malcolm, Executive Assistant, Governor, is appearing on behalf of the Governor. They have a special interest in the placement of the statue of Mike Mansfield. The statue would stand as a permanent reminder to the public and its government of the man's dedication, integrity, sincerity, humility, and accomplishments in many areas of public life. The proposal received unanimous endorsement from the Capitol Complex Council. The memorial to Senator Mansfield would be financed through private donations. They intend to work closely with the Montana Arts Council and the Capitol Complex Advisory Council in the selection of the design, artist, and placement of the statue.

Bob Brown said he drafted a resolution for Mike Mansfield. He urged the committee to strike the portion on Senator Mansfield from the bill and introduce a separate committee resolution for Mike Mansfield. He suggested that a joint committee, with the House and the Senate, meet and talk about Mike Mansfield. Mansfield is the most significant statesman this state has ever produced. He was the Senate Majority Leader longer than any other person in history and was elected all eight times without opposition. He served as Ambassador to Japan longer than anyone in history. Senator Mansfield changed careers at the age of 86. Senator Mansfield deserves high recognition and a lot of people would like to have an opportunity to participate in it.

Doug Monger, Fish, Wildlife, and Parks, read **EXHIBIT(sts33a03).**

Informational Witnesses:

{Tape : 1; Side : A; Approx. Time Counter : 34 - 53}

Bill Bayless, General Services Division, Department of Administration, explained that the second item in the resolution has to do with the recognition of House members. Last session they passed a resolution recognizing Senate members with a plaque that will be handled by the Senate. They have had requests for a similar recognition for House members. The second item allows the House recognition to be handled by House members.

Andrew Malcolm added for informational purposes, they should not let the memorial for Mike Mansfield get carried away, as Mike Mansfield should not have to be confronted about it and be put on the spot.

Questions from Committee Members and Responses:

SEN. TESTER asked **Mr. Malcolm** if it would put Sen. Mansfield on display to put forth a resolution. **Mr. Malcolm** said it would not. His concern is that people will go running to him in their enthusiasm to show what they are doing.

SEN. COLE clarified they would put together one committee bill to memorialize Mike Mansfield and have an amendment to strike the Mansfield portion from this resolution.

Closing by Sponsor:

SEN. BECK handed out **EXHIBIT(sts33a04).** He explained that Senator Mansfield is a humble person and should not be made to feel he is on the spot. He wants to have him recognized. He added the Montana Capitol Restoration has a huge task to match

the funds given by the state, but they are willing to take charge. He urged the committee to pass the resolution.

DISCUSSION ON SJ

A brief discussion was held to clarify the committee bill and amendment to Senate Joint Resolution 4. The committee bill is not subject to the transmittal deadline.

EXECUTIVE ACTION ON HB 141

Motion/Vote: **SEN. WILSON** moved that **HB 141 BE CONCURRED IN. Motion carried 5-0.**

EXECUTIVE ACTION ON HB 198

{Tape : 1; Side : B; Approx. Time Counter : 53 - 68}

Motion/Vote: **SEN. TESTER** moved that **HB 198 BE CONCURRED IN. Motion carried 4-1 with Wells voting no.** (This bill was held for further action on 2/15/96.)

EXECUTIVE ACTION ON SB 356

David Niss, Legislative Services Division, handed out amendments **EXHIBIT(sts33a05).** These amendments do two things in addition to the amendments passed out during the hearing, which adds a former or current highway construction contractor to the commission. The additional amendment specifies if the commission is going to vote on awarding a contract to a company, the contractor of the company may not vote on awarding of the contract. The amendment does not include the requirement that the Governor appoint someone from the list submitted by the Contractor's Association.

Motion: **SEN. WELLS** moved that **SB 356 BE AMENDED.**

SEN. TESTER stated even though the person isn't voting on the member's own highway construction business when awarding a contract, it still brings forth a question of impropriety. This is different than members from other associations in that this money is coming directly from the state. He understands it is incumbent upon members who do not know anything about highway construction business to learn.

SEN. WELLS said there are other cases where this kind of conflict of interest could potentially occur because they receive state or

federal money. He thinks many boards, at one time or another, gain an advantage by tax payer money. He feels someone with expertise needs to be on the board.

Vote: Roll call vote was taken. **Motion carried 4-1 with Tester voting no.**

SEN. COLE stated they needed to have someone who is knowledgeable in Native American needs, as opposed to mandating they be a Native American. This is because the member will represent the reservation as well as a financial district. This would be the fairest way.

Motion/Vote: **SEN. WILSON** moved that **SB 356 DO PASS AS AMENDED. Motion carried 5-0.**

EXECUTIVE ACTION ON SB 292

They discussed **Senate Bill 292. Mr. Niss** said there is a title problem in that bill. The bill states it is a bill to clarify the law concerning the Constitutionality of some of the language, and the amendment passed by the committee creates a new offense with the person making misrepresentations about themselves during the campaign. The bill cannot be changed through its passage through the legislature.

Motion: **SEN. WILSON** moved to withdraw the motion to amend **SB 292** that included a person making misrepresentations about themselves during the campaign. **Motion carried 5-0.**

Motion/Vote: **SEN. WELLS** moved that **SB 292 DO PASS. Motion carried 5-0.**

{Tape : 1; Side : B; Approx. Time Counter : 68 - 88}

DISCUSSION ON SB 228

A discussion was held as to holding the tax election in May. They talked about having a sunset provision for 1999. They have requests for exemptions. They have to deal with the application of the bill for this year. Also, the dates must be chosen for this year. Some members feel there are some collections of fees, taxes, and charges that should not be included in the bill, as they do not believe they are covered under CI-75. They talked about the other bills that addressed all of the fees affected by CI-75. Any and all fees affected by CI-75 should be tied into this bill. They discussed the possibility of giving two opportunities to have one tax election during the transition

period. The May date would be the tax election date after the year 2000. The Department of Revenue would find out when they could have their certified values for this year and if it is legal to use the centrally assessed values from the previous year. They also decided they did want contingent provision.

{Tape : 2; Side : A; Approx. Time Counter : 88 - 96}

The committee was given their second set of board appointments.

ADJOURNMENT

Adjournment: 11:36 A.M.

_____
SEN. MACK COLE, Chairman

_____
KERI BURKHARDT, Secretary

MC/KB

EXHIBIT(sts33aad)

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TRANSPORTATION

Call to Order: By **CHAIRMAN SHIELL ANDERSON**, on March 10, 1999 at 3:20 P.M., in Room 420 Capitol.

ROLL CALL

Members Present:

Rep. Shiell Anderson, Chairman (R)
Rep. Gary Beck, Vice Chairman (D)
Rep. Rick Jore, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Joe Barnett (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Matt Brainard (R)
Rep. Paul Clark (D)
Rep. Robert C. Clark (R)
Rep. Steven Gallus (D)
Rep. George Golie (D)
Rep. Marian Hanson (R)
Rep. Donald L. Hedges (R)
Rep. Carol C. Juneau (D)
Rep. Gary Matthews (D)
Rep. Frank Smith (D)
Rep. Roger Somerville (R)
Rep. Cliff Trexler (R)

Members Excused: None.

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: SB 330; SB 346; SB 355; SB 356; 3/5/99
Executive Action: None

HEARING ON SB 346

Sponsor: Senator Don Hargrove, SD 16.
{Tape : 1; Side : A; Approx. Time Counter : 0 - 1.4}

Proponents: Bob Turner, Department of Transportation.
EXHIBIT(trh54a01)
{Tape : 1; Side : A; Approx. Time Counter : 1.4 - 5.1}

Ronna Alexander, Petroleum Marketing Association.
{Tape : 1; Side : A; Approx. Time Counter : 5.1 - 8.5}

Mike Foster, Montana Contractors' Association.
{Tape : 1; Side : A; Approx. Time Counter : 8.5 - 9.1}

Opponents: None

Questions from Committee Members and Responses: Reps. Juneau, Hanson, Anderson to Senator Hargrove and Bob Turner.
{Tape : 1; Side : A; Approx. Time Counter : 9.1 - 11.5}

Closing by Sponsor: Senator Hargrove closed the Hearing on SB 346.
{Tape : 1; Side : A; Approx. Time Counter : 11.5 - 11.7}

HEARING ON SB 355

Sponsor: Senator Arnie Mohl, SD 39
{Tape : 1; Side : A; Approx. Time Counter : 11.7 - 14.5}

Proponents: Gary Gilmore, Administrator, Engineering Division, Department of Transportation.
{Tape : 1; Side : A; Approx. Time Counter : 14.5 - 16.6}

Mike Foster, Montana Contractors' Association.
{Tape : 1; Side : A; Approx. Time Counter : 16.6 - 17.9}

Opponents: Marga Lincoln, Alternative Energy Resources Organization. **EXHIBIT(trh54a02)**
{Tape : 1; Side : A; Approx. Time Counter : 17.9 - 21.5}

Questions from Committee Members and Responses: Reps. Adams, Gallus, Brainard, Paul Clark, Golie, Smith to Senator Mohl, Gary Gilmore,
{Tape : 1; Side : A; Approx. Time Counter : 22 - 30.3}
{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 4.1}

Closing by Sponsor: Senator Mohl closed the Hearing on SB 355.
{Tape : 1; Side : B; Approx. Time Counter : 4.1 - 5.8}

HEARING ON SB 356

Sponsor: Senator Arnie Mohl, SD 39.
{Tape : 1; Side : B; Approx. Time Counter : 5.8 - 13.1}

Proponents: Jim Currie, Department of Transportation.
{Tape : 1; Side : B; Approx. Time Counter : 13.1 - 13.9}

Mike Foster, Montana Contractors' Association.
{Tape : 1; Side : B; Approx. Time Counter : 13.9 - 18}

Opponents: None

Questions from Committee Members and Responses: Reps. Hedges, Barnett, Bob Clark, Juneau, Golie, Bookout-Reinicke, Gallus, Hanson, Smith to Mike Foster; Senator Mohl; Tim Reardon, Attorney, Department of Transportation.
{Tape : 1; Side : B; Approx. Time Counter : 18 - 28.3}
{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 4.5}

Closing by Sponsor: Senator Mohl closed the Hearing on SB 356.
{Tape : 2; Side : A; Approx. Time Counter : 4.5 - 6.3}

HEARING ON SB 330

Sponsor: Senator Mohl, SD 39. **EXHIBIT(trh54a03)**
EXHIBIT(trh54a04)

{Tape : 2; Side : A; Approx. Time Counter : 6.7 - 17.0}

Proponents: Mike Foster, Montana Contractors' Association.
{Tape : 2; Side : A; Approx. Time Counter : 17.0 - 22.7}

Opponents: None

Informational Testimony: Mick Robinson, Policy Director, Governor's Office. **EXHIBIT(trh54a05)**
{Tape : 2; Side : A; Approx. Time Counter : 22.7 - 28.6}
{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 2.9}

Questions from Committee Members and Responses: Reps. Gallus, Golie, Bookout-Reinicke, Smith, Paul Clark, Somerville, Anderson, Beck to Mick Robinson, Senator Mohl, Tim Reardon
{Tape : 2; Side : B; Approx. Time Counter : 2.9 - 28.6}
{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 1.6}

Closing by Sponsor: Senator Mohl closed the Hearing on SB 330.
{Tape : 3; Side : A; Approx. Time Counter : 1.6 - 6.0}

ADJOURNMENT

Adjournment: 5:20 P.M.

_____
REP. SHIELL ANDERSON, Chairman

_____
MARY LOU SCHMITZ, Secretary

SA/MS

EXHIBIT(trh54aad)

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TRANSPORTATION

Call to Order: By **CHAIRMAN SHIELL ANDERSON**, on March 15, 1999 at 3:05 P.M., in Room 420 Capitol.

ROLL CALL

Members Present:
Rep. Shiell Anderson, Chairman (R)
Rep. Gary Beck, Vice Chairman (D)
Rep. Rick Jore, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Joe Barnett (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Paul Clark (D)
Rep. Robert C. Clark (R)
Rep. Steven Gallus (D)
Rep. George Golie (D)
Rep. Marian Hanson (R)
Rep. Donald L. Hedges (R)
Rep. Carol C. Juneau (D)
Rep. Gary Matthews (D)
Rep. Frank Smith (D)
Rep. Roger Somerville (R)
Rep. Cliff Trexler (R)

Members Excused: Rep. Matt Brainard

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: **SJ 7; SJ 8; 3/11/99**

Executive Action: **SB 47; TABLED 13-4**
SB 330; Be Concurred In 16-1

SB 356; Be Concurred In as Amended 15-2
SB 346; Be Concurred In 16-1
SB 355; Be Concurred In 11-6
SB 122; Be Concurrec In as Amended 17-0
HB 648; Do Pass 16-1

HEARING ON SJ 7

Sponsor: Senator John Bohlinger, SD 7. **EXHIBIT(trh58a01)**
{Tape : 1; Side : A; Approx. Time Counter : 0.1 - 10.2}

Proponents: Russ Ritter, Montana Rail Link.
{Tape : 1; Side : A; Approx. Time Counter : 10.2 - 14.9}

Rodney Garcia, Chairman, Southside Community Taskforce.
EXHIBIT(trh58a02) **EXHIBIT(trh58a03)**
{Tape : 1; Side : A; Approx. Time Counter : 14.9 - 17.7}

Jane McCall, Representing City of Billings, **EXHIBIT(trh58a04)**
{Tape : 1; Side : A; Approx. Time Counter : 17.7 - 19.1}

Opponents: None

Questions from Committee Members and Responses: Reps. Hedges, Adams, Jore, Somerville, Bookout-Reinicke, Bob Clark to Senator Bohlinger, Russ Ritter, Rodney Garcia.
{Tape : 1; Side : A; Approx. Time Counter : 19.1 - 30.5}
{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 4.7}

Closing by Sponsor: Senator Bohlinger closed the Hearing on SJ7.
{Tape : 1; Side : B; Approx. Time Counter : 4.7 - 8.6}

HEARING ON SJ 8

Sponsor: Senator Greg Jergeson, SD 46.
{Tape : 1; Side : B; Approx. Time Counter : 8.6 - 16.4}

Proponents: Mike Foster, Montana Contractors' Association.
{Tape : 1; Side : B; Approx. Time Counter : 16.4 - 17.9}

Opponents: James Olsen, President, Friends of the Bitterroot.
EXHIBIT(trh58a05).
{Tape : 1; Side : B; Approx. Time Counter : 17.9 - 21.9}

Marga Lincoln, Alternative Energy Resources Organization.
EXHIBIT(trh58a06)
{Tape : 1; Side : B; Approx. Time Counter : 21.9 - 24}

Thompson Smith, Flathead Reservation Organization,
EXHIBIT(trh58a07)
{Tape : 1; Side : B; Approx. Time Counter : 24 - 28.5}
{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 0.2}

Glenna Obie, Deputy County Commissioner, Jefferson County.
{Tape : 2; Side : A; Approx. Time Counter : 0.2 - 5}

Corwin Clairmont, Flathead Reservation Organization, read letters from Dr. Joseph F. McDonald and Dr. William Bradshaw.
EXHIBIT(trh58a08) **EXHIBIT(trh58a09)**
{Tape : 2; Side : A; Approx. Time Counter : 5 - 9.5}

Informational Testimony: Rep. Roger Somerville, HD 78.
{Tape : 2; Side : A; Approx. Time Counter : 9.5 - 12}

Questions from Committee Members and Responses: Reps. Paul Clark, Golie, Anderson, Juneau, Gallus to Senator Jergeson and Pat Saindon, Administrator, Planning Division, Department of Transportation; Thompson Smith.
{Tape : 2; Side : A; Approx. Time Counter : 12 - 23.2}

Closing by Sponsor: Senator Jergeson closed the Hearing on SJR 8.
{Tape : 2; Side : A; Approx. Time Counter : 23.2 - 24.4}

EXECUTIVE ACTION ON SB 47

Motion: **REP. BARNETT** moved that **SB 47 BE CONCURRED IN.**
{Tape : 2; Side : A; Approx. Time Counter : 24.4 - 25.6}

Discussion: Reps. Paul Clark, Golie, Anderson, Hedges, Smith, Bob Clark, Adams, Somerville, Beck, Hanson, Gallus,
{Tape : 2; Side : A; Approx. Time Counter : 25.6 - 30}
{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 8.0}

Motion/Vote: **REP. CLARK** moved that **SB 47 BE TABLED.** Motion carried 13-4 with Reps. Anderson, Jore, Barnett and Hedges voting no.
{Tape : 2; Side : B; Approx. Time Counter : 8 - 9.2}

EXECUTIVE ACTION ON SB 330

Motion: **REP. SOMERVILLE** moved that **SB 330 BE CONCURRED IN.**
{Tape : 2; Side : B; Approx. Time Counter : 9.2 - 10}

Discussion: Reps. Somerville, Smith, Adams, Gallus, Paul Clark.
{Tape : 2; Side : B; Approx. Time Counter : 10 - 14.6}

Vote: Motion carried 16-1 with Rep. Jore voting no.
{Tape : 2; Side : B; Approx. Time Counter : 14.6 - 15}

EXECUTIVE ACTION ON SB 356

Motion: **REP. JUNEAU** moved that **SB 356 BE CONCURRED IN.**
{Tape : 2; Side : B; Approx. Time Counter : 15 - 16.2}

Motion: **REP. JUNEAU** moved that **SB 356 BE AMENDED.**
{Tape : 2; Side : B; Approx. Time Counter : 16.2 - 16.9}

Discussion: Rep. Juneau explained the amendment. Reps. Paul Clark, Beck, Anderson, Somerville, Smith, Hedges, Hanson, Gallus, Adams, Barnett.
{Tape : 2; Side : B; Approx. Time Counter : 16.9 - 28.1}
{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 3.8}

Vote: Vote on the Juneau Amendment carried 9-8 with Reps. Anderson, Jore, Adams, Barnett, Robert Clark, Hanson, Hedges and Trexler voting no.
{Tape : 3; Side : A; Approx. Time Counter : 3.8 - 4.7}

Motion/Vote: **REP. JUNEAU** moved that **SB 356 BE CONCURRED IN AS AMENDED. Motion carried 15-2 with Reps. Adams and Hedges voting no.**
{Tape : 3; Side : A; Approx. Time Counter : 4.7 - 5}

EXECUTIVE ACTION ON HB 648

Motion: **REP. GALLUS** moved that **HB 648 DO PASS.**
{Tape : 3; Side : A; Approx. Time Counter : 5 - 5.8}

Discussion: Reps. Gallus, Adams, Paul Clark, Beck, Bookout-Reinicke, Anderson; without objection, Jerome Anderson.
{Tape : 3; Side : A; Approx. Time Counter : 5.8 - 10.8}

Vote: Motion carried 16-1 with Rep. Jore voting no.
{Tape : 3; Side : A; Approx. Time Counter : 10.8 - 11.2}

EXECUTIVE ACTION ON SB 346

Motion/Vote: **REP. SOMERVILLE moved that SB 346 BE CONCURRED IN. Motion carried 16-1 with Rep. Jore voting no.**
{Tape : 3; Side : A; Approx. Time Counter : 11.2 - 14.5}

EXECUTIVE ACTION ON SB 355

Motion: **REP. SMITH** moved that **SB 355 BE CONCURRED IN.**
{Tape : 3; Side : A; Approx. Time Counter : 14.5 - 16.7}

Discussion: Reps. Gallus, Golie, Paul Clark, Somerville, Beck, Anderson, Hedges, Bob Clark.
{Tape : 3; Side : A; Approx. Time Counter : 16.7 - 30.1}

Vote: Motion carried 11-6 with Reps. Beck, Adams, Paul Clark, Golie, Juneau and Smith voting no.
{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 0.2}

EXECUTIVE ACTION ON SB 122

Motion: **REP. PAUL CLARK** moved that **SB 122 BE CONCURRED IN.**
{Tape : 3; Side : B; Approx. Time Counter : 0.2 - 2.1}

Motion: **REP. HEDGES** moved that **SB 122 BE AMENDED.**
{Tape : 3; Side : B; Approx. Time Counter : 2.1 - 2.5}

Discussion: Brenda Nordlund, Justice Department, explained the Hedges amendments.
{Tape : 3; Side : B; Approx. Time Counter : 2.5 - 3.5}

Vote: Motion on Hedges amendment carried unanimously 17-0.
{Tape : 3; Side : B; Approx. Time Counter : 3.5 - 3.6}

Motion/Vote: **REP. BOOKOUT-REINICKE** moved that **SB 122 BE CONCURRED IN AS AMENDED. Motion carried unanimously 17-0.**
{Tape : 3; Side : B; Approx. Time Counter : 3.6 - 3.8}

ADJOURNMENT

Adjournment: 5:30 P.M.

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REP. SHIELL ANDERSON, Chairman

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MARY LOU SCHMITZ, Secretary

SA/MS

EXHIBIT(trh58aad)